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October 27, 2022

VIA ECF

Honorable Naomi Reice Buchwald, U.S.D.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Cequel Communications, LLC v. MOX Networks, LLC*
Case No. 1:21-cv-05577 (NRB)

Dear Judge Buchwald:

This firm represents Defendant MOX Networks, LLC ("MOX") in the above-entitled matter. We write to respectfully request a modest extension of time with respect to expert discovery. The current deadline for MOX to serve its expert reports is November 15, 2022 and the current deadline to complete expert discovery is January 15, 2023. MOX respectfully requests that its deadline for serving its rebuttal and affirmative expert reports be extended by 30 days to December 15, 2022. MOX also requests a corresponding 30-day extension of the expert discovery deadline to allow Cequel additional time to serve a rebuttal to MOX's affirmative expert report and complete expert depositions. This is the first request to extend the deadline to complete expert discovery in this matter.

Cequel would consent to a shorter 15-day extension of MOX's disclosure deadline with no extension of the January 15, 2023 deadline to complete expert discovery; however, Cequel does not oppose MOX's request for a 30-day extension so long as there is a corresponding 30-day extension of the expert discovery deadline.

MOX makes this request for a 30-day extension because it needs additional time to respond to Cequel's expert report, which was served on October 15, 2022. One of the key issues in this case is what caused certain faults in the fiber optic cable network that Cequel built for MOX. At a very high level, Cequel claims that the faults are the result of a manufacturing defect in the fiber optic cable. MOX alleges that the fiber optic cable met with all necessary specifications but was damaged by mishandling and improper installation by Cequel's contractors. Determination of this critical causation issue will rest largely on the evaluation of highly technical expert testimony, among other things.

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Cequel's expert report generally alleges that the fiber cable that MOX purchased from a global fiber manufacturer located in South Korea was defective and failed a residual tensile strength test. Prior to receiving Cequel's report, MOX did not have a clear understanding about the technical basis for Cequel's claim. Now that this issue has been clarified by virtue of Cequel's expert report, MOX is gathering and sharing the relevant information with its expert to enable him to analyze the disputed issues in context and render his opinion. Given both the need for MOX's expert to review the data produced by Cequel's expert and the complexity of the engineering issues involved, that analysis will take an additional 30 days beyond the current expert disclosure deadline. Although Cequel has indicated that it believes that 15 days should be sufficient, MOX has been advised by its expert that more time is required. Moreover, MOX does not believe that the extra 15 days beyond what Cequel would consent to will materially impact the overall schedule and desire to reach the merits of this matter as soon as possible.

Accordingly, MOX respectfully requests that the Court extend MOX's time to serve its expert reports by 30 days until December 15, 2022 and extend the expert discovery end date by 30 days until February 15, 2023. So
Ordered
Naomi Reice Buchwald,
11/1/22
USDJ

Thank you for Your Honor's consideration of this request.

Respectfully submitted,

/s/ Andrew B. Joseph
Andrew B. Joseph

cc: All counsel of record (via ECF)